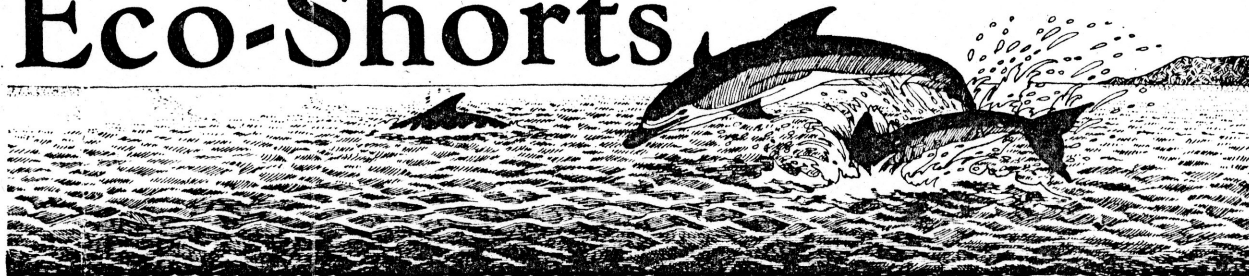


Eco-Shorts



Indian Salmon Rights Upheld

by Tim McKay

Timber companies and land developers in western Washington may not see them yet, but there are Indians coming ... coming to claim their birthright.

A new twist has come to the ongoing saga of Indians and salmon. In what will be known as the Orrick decision or Boldt II, western Washington tribes' rights to 50% of the salmon and steelhead catch has been interpreted to include hatchery-raised fish as well as native runs.

The collected tribes of Native Americans who have occupied the shores of the Pacific North Coast for thousands of years are among the major players in the continuing struggle over anadromous fish (salmon, steelhead and other fish which spend part of their lives in salt water before returning to the rivers to spawn).

In 1855, tribes in Washington signed over their interests in that landscape for, in part, an assured fishery right. The salmon played a central role in many of these native cultures.

In 1974 Federal Judge George Boldt ruled that this right entitled the Washington treaty Indians to 50% of the anadromous fish take. In the words of National Fisherman, "that decision aroused a fury among white fishermen, anti-Indian people and state's righters."

In a September ruling on a latter phase of the historic fishing rights case, Judge William H. Orrick, Jr. ruled once again on behalf of the western Washington Indians.

The State of Washington had contended that

the 50% figure should apply to only native fish and not to hatchery stocks, while the Indians contended that the earlier case gave them the right to an environment that would support a healthy fishery.

Judge Orrick ruled on behalf of the Indians on both questions. In denying the state's contention that the hatchery-reared fish were the property of the state, Orrick said, "It would be inequitable and contrary to the spirit and intent of the treaties were state-produced hatchery fish to be exempt from the treaties."

Orrick went on to note that reduction in natural fish production is "undisputed" and that "human activities have seriously degraded the quality of the fishery habitat." In extending his remarks, Orrick said that the original Boldt decision did not give the Indians the right to try to catch fish but the right to catch fish.

Noting the trend in the decline of natural salmon stocks, the judge said, "Were this trend to continue, the right to take fish would eventually be reduced to the right to dip one's net into the water ... and bring it out empty."

So he upheld the tribes' contention that the treaties of 1855 gave them the right to an environment which assures the continued survival of the salmon and thus themselves.

This means that the western tribes may, via the courts, be exercising a powerful role in a wide range of activities which have a detrimental impact on salmon such as logging, road construction, the use of pesticides and mining, to name but a few.